

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:15-cv-00241-GCM

TOMMIE RAYMOND THOMAS, )  
)  
Petitioner, )  
)  
v. )  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent. )  
\_\_\_\_\_)

**ORDER**

**THIS MATTER** is before the Court on consideration of Petitioner's Rule 59(e) motion to reconsider the dismissal of his § 2255 motion to vacate his sentence. See Fed. R. Civ. P. 59(e).

On July 7, 2015, an order and judgment dismissing Petitioner's § 2255 motion was filed and on August 4, 2015, the Clerk docketed Petitioner's notice of appeal to the United States Court of Appeals for the Fourth Circuit. According to the file stamp on the envelope mailed by Petitioner, the notice of appeal was postmarked on July 29, 2015. Petitioner's Rule 59(e) motion was filed at the earliest on August 7th according to his sworn statement that he placed the motion in the custody of the prison's mailing system on that date. Accordingly, this Court is without jurisdiction to consider the motion. In any event, it appears that the Rule 59(e) motion is untimely as it was filed more than 28 days after judgment was entered.

**IT IS, THEREFORE, ORDERED** that Petitioner's Rule 59(e) motion is **DISMISSED**.  
(Doc. No. 7).

**SO ORDERED.**

Signed: September 1, 2015



Graham C. Mullen  
United States District Judge

